

REMARKS

Claims 19-28 are rejected under 35 U.S.C. §101 as being directed towards non-statutory subject matter. Claims 19-33 are rejected as being anticipated by Schloss, U.S. Patent 5,706,507.

Regarding the §101 rejection, the independent claims have been amended to indicate that the entry containing non-textual content is stored in the on-line database. Additionally, the independent claims have been amended to indicate that the entry is then made available to other users of the on-line database over a public network, such as the Internet, for searching and retrieval. It is respectfully submitted that the claims as amended now recite a concrete process that comprises statutory subject matter. It is respectfully requested that this rejection be withdrawn.

Regarding the §102(e) rejection, without admitting the propriety of the instant rejection, or that the cited reference is indeed prior art, Applicant has submitted a declaration under 37 CFR 1.131 to swear behind the Schloss reference relied upon by the Examiner.

The attached declaration of Ralph Wesinger, a named co-inventor of the pending application, shows that the instant invention as claimed was reduced to practice prior to the earliest effective date of the Schloss reference.

The attached declaration shows that Mr. Wesinger conceived of the idea for a web site having the functionality as presently claimed at least by Nov. 26, 1994. The site was live and functional at least by May 12, 1995, well before the July 5, 1995 filing date of the Schloss reference.

The attached declaration also shows that from conception, Mr. Wesinger exercised due diligence in reducing the invention to practice as evidenced through the hiring of co-inventor Mr. Coley in January of 1995. Upon his hiring, Mr. Coley set about to construct the data center necessary to host the web site. In February 1995, Mr. Coley then began writing the code that ultimately resulted in the reduction to practice of the GolfUSA site that embodied the invention as claimed.

As can be seen from the attached declaration and exhibits, the GolfUSA site actually existed and worked for its intended purpose by at least May of 1995.

Applicant respectfully submits that the attached declaration and exhibits provide satisfactory factual evidence of the conception and subsequent reduction to practice of the invention as claimed prior to the effective date of the cited art per MPEP 715.07.

In light of the submitted declaration, it is respectfully submitted that the Schloss reference is no longer available under 35 U.S.C. §102(a)/(e), or 35 U.S.C. §103(a). See MPEP 715.

The attached declaration shows the conception and diligent reduction to practice of the subject matter as claimed in independent claims 1, 13, and 25. It is respectfully submitted that independent claims 1, 13, and 25 are now in a condition for allowance. Furthermore, it is believed that claims dependent therefrom are also in a condition for allowance for at least as being dependent from an allowable base claim. Accordingly, Applicant believes that all pending claims are in a condition for allowance.

Applicant respectfully traverses this rejection, and requests reconsideration of the pending claims.

If the Examiner has any questions regarding this application or this response, the Examiner is personally invited to telephone the undersigned at 775-848-5624.

Respectfully submitted,  
SIERRA PATENT GROUP, LTD.

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